

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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TRUSTEES OF THE NEW YORK CITY DISTRICT	:	
COUNCIL OF CARPENTERS PENSION FUND,	:	
WELFARE FUND, ANNUITY FUND, AND	:	21-CV-9408 (JMF)
APPRENTICESHIP, JOURNEYMAN RETRAINING,	:	
EDUCATIONAL AND INDUSTRY FUND et al.,	:	<u>MEMORANDUM OPINION</u>
	:	<u>AND ORDER</u>
Petitioners,	:	
	:	
-v-	:	
	:	
VREX CONSTRUCTION INC.,	:	
	:	
Respondent.	:	
-----X	:	

JESSE M. FURMAN, United States District Judge:

On November 15, 2021, Petitioners filed a Petition to Confirm Arbitration. ECF No. 1. On November 16, 2021, the Court set a briefing schedule for Petitioners' submission of any additional materials in support of the Petition, Respondent's opposition, and Petitioners' reply. ECF No. 7. Petitioners served Respondent with the Petition, supporting materials, and the briefing schedule. ECF Nos. 8, 9. Pursuant to the briefing schedule, Respondent's opposition was due no later than December 14, 2021. ECF No. 7. To date, Respondent has neither responded to the petition nor otherwise sought relief from the Award.

The Court must treat the Petition, even though unopposed, "as akin to a motion for summary judgment based on the movant's submissions." *Trs. for Mason Tenders Dist. Council Welfare Fund, Pension Fund, Annuity Fund & Training Program Fund v. Capstone Constr. Corp.*, 11-CV-1715 (JMF), 2013 WL 1703578, at *2 (S.D.N.Y. Apr. 19, 2013) (discussing in depth the legal standards for resolving unopposed petitions to confirm arbitration awards). After

reviewing the petition and the supporting materials, the Court finds that there is no genuine issue of material fact precluding summary judgment as to all portions of the Award, as the Arbitrator's decision provides more than "a barely colorable justification for the outcome reached." *Id.* at *3 (internal quotation marks omitted). Nor is there any justification under Section 10(a) of the Federal Arbitration Act for vacating the Award.

Petitioners also seek pre- and post-judgment interest. *See* ECF No. 1 at 9; ECF No. 5 at 7-8. The Court grants Petitioners' request for pre-judgment interest at a rate of 5.25 percent, the rate granted by the arbitrator. *See* ECF No. 1-13 at 2 (arbitration award granting pre-judgment interest rate of 5.25 percent); *Waterside Ocean Navigant Co. v. Int'l Navigation Ltd.*, 737 F.2d 150, 154 (2d Cir. 1984) (adopting a "presumption in favor of pre-judgment interest"); *Trustees of New York City Dist. Council of Carpenters Pension Fund, Welfare Fund, Annuity Fund, & Apprenticeship, Journeyman Retraining, Educ. & Indus. Fund v. Tried N True Interiors LLC*, No. 19-CV-02083 (GHW), 2019 WL 2327524, at *3 (S.D.N.Y. May 31, 2019) (awarding the pre-judgment interest rate granted by the arbitrator). The Court also awards post-judgment interest pursuant to 28 U.S.C. § 1961(a), under which such interest "shall be allowed on any money judgment in a civil case recovered in a district court, . . . at a rate equal to the weekly average 1-year constant maturity Treasury yield, as published by the Board of Governors of the Federal Reserve System, for the calendar week preceding the date of the judgment." *See Bhd. of Locomotive Engineers & Trainmen v. Long Island R. Co.*, 340 F. App'x 727, 731 (2d Cir. 2009); *Media Force Ltd. v. Precise Leads, Inc.*, No. 20-CV-4050 (AT), 2020 WL 8669829, at *3 (S.D.N.Y. Nov. 30, 2020).


The Court also awards Petitioners' requested attorneys' fees and costs. *See Int'l Chem. Workers Union (AFL-CIO), Local No. 227 v. BASF Wyandotte Corp.*, 774 F.2d 43, 47 (2d Cir.

1985) (“[W]hen a challenger refuses to abide by an arbitrator’s decision without justification, attorney's fees and costs may properly be awarded.” (internal quotation marks omitted)). Here, Petitioners have met their burden of proving the reasonableness and necessity of hours spent, rates charged, and litigation costs incurred.

Accordingly, the Court grants Petitioners’ unopposed petition to confirm the entire Award. Petitioners are directed to file their Proposed Judgment electronically, using the ECF Filing Event “Proposed Judgment,” no later than **January 10, 2022**.

SO ORDERED.

Dated: January 3, 2022
New York, New York



JESSE M. FURMAN
United States District Judge